



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,065	02/13/2002	William Eugene Moser	47440-044001	7475
7590 Stephen T. Scherrer McDermott, Will & Emery 227 West Monroe Street Chicago, IL 60606-5096				
08/18/2008				
EXAMINER				
ABEL JALIL, NEVEEN				
ART UNIT		PAPER NUMBER		
2165				
MAIL DATE		DELIVERY MODE		
08/18/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/075,065

Applicant(s)

MOSER ET AL.

Examiner

Neveen Abel-Jalil

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Remarks

1. In response to Applicant's Amendment filed on June 18, 2008, claims 1-11 are pending.
2. Applicant's response has overcome the previous rejection under 35 USC 101.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-5, and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs (U.S. Patent No. 5,836,529) in view of Good (U.S. Patent No. 6,477,452 B2).

As to claim 1, Gibbs discloses a method for inspecting rail equipment and storing information relating to the inspection comprising:

providing rail equipment having a plurality of parts (See Gibbs column 3, lines 4-30);  
inspecting the rail equipment to determine a damage condition of each of the parts of the rail equipment (See Gibbs column 16, lines 5-67, also see Gibbs column 4, lines 1-37);  
providing a data entry system comprising a plurality of fields (See Gibbs column 15, lines 15-58, also see Gibbs column 16, lines 47-54, wherein "damage condition" reads on "mechanical failure");

generating at least one report showing an overall damage condition of the rail equipment that is calculated from the information input into the data entry system (See Gibbs column 18, lines 1-67, also see Gibbs column 21, lines 1-41, and see Gibbs column 9, lines 31-56); and

providing a database interconnected with the data entry system for storing information input into the data entry system or generated by the data entry system (See Gibbs column 10, lines 26-36, and see Gibbs column 7, lines 18-47, and see Gibbs column 8, lines 42-66).

Gibbs shows:

monitoring and storing performance and status of railway equipment (See figure 9C, also see column 22, lines 1-30);

reporting capability on selected conditions related to rail equipment or entire train (See figure 9C, also see column 22, lines 1-30);

tracking and reporting (computerized train control map) of rail equipment conditions (whether locomotive is dead or isolated, and mechanical failure codes);

Gibbs does not expressly show

querying a user of the data entry system for information relating to the damage condition of each off the parts of the rail equipment;

entering the damage condition of each of the parts of the rail equipment in to each of the plurality of fields; providing a plurality of dispositions for the rail equipment wherein the plurality of dispositions includes not repairing the rail equipment, repairing the rail equipment using a mobile repair unit and repairing the rail equipment at a repair facility, wherein the mobile repair unit is a vehicle equipped to provide mechanical services to the rail equipment without requiring the rail equipment to be moved to a repair facility and automatically assigning via the

Art Unit: 2165

data entry system, one of the dispositions to the rail equipment. However, Gibbs's reference as a whole teaches a computer aided dispatch system column 4, lines 42-45 in accordance with problem flag column 11, line 4, a tag status, an activity and an owner (i.e. dispatch unit crew) column 11, lines 31-33 under the command of the dispatcher column 7, lines 10-12, as well as data entry system in column 2, lines 38-67.

Good teaches querying a user of the data entry system for information relating to the damage condition of each off the parts of the rail equipment (See Good column 8, lines 37-47); entering the damage condition of each of the parts of the rail equipment in to each of the plurality of fields (See Good Figure 4, shows damage status database with multiple fields); providing a plurality of dispositions for the rail equipment wherein the plurality of dispositions includes not repairing the rail equipment, repairing the rail equipment using a mobile repair unit and repairing the rail equipment at a repair facility, wherein the mobile repair unit is a vehicle equipped to provide mechanical services to the rail equipment without requiring the rail equipment to be moved to a repair facility (See Good column 8, lines 45-57, wherein the use of "MRU" is taught, wherein it is not only inherent but obvious that if repairs are not needed or they have just been completed then the disposition would be "not repairing the rail equipment", Good teaches repair shop as a location in column 2, lines 35-37 thus reads on "repairing the rail equipment at a repair facility"); and

automatically assigning a disposition from a plurality of dispositions, wherein at least one of the dispositions comprises repairing the rail equipment using a mobile repair system (See Good column 7, lines 40-50).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Gibbs with Good to include querying a user of the data entry system for information relating to the damage condition of each of the parts of the rail equipment; entering the damage condition of each of the parts of the rail equipment in to each of the plurality of fields; providing a plurality of dispositions for the rail equipment wherein the plurality of dispositions includes not repairing the rail equipment, repairing the rail equipment using a mobile repair unit and repairing the rail equipment at a repair facility, wherein the mobile repair unit is a vehicle equipped to provide mechanical services to the rail equipment without requiring the rail equipment to be moved to a repair facility; and automatically assigning a plurality of dispositions, wherein at least one of the dispositions comprises repairing the rail equipment using a mobile repair system for the rail equipment and assigning one of the plurality of dispositions to the rail equipment because it provides for flexibility and minimization of rail equipment downtime (See Good column 1, lines 25-40) it is obvious that once the condition is determined then a repairation process will be assigned.

Gibbs as modified still does not expressly show based on the overall damage condition of the rail equipment.

However, Gibbs's reference as a whole teaches the overall damage condition of the rail equipment (i.e. to provide and assign plurality of status conditions, and setting alert status to dispatch a repair unit) having any type of content because Gibbs is directed to railroad transportation monitoring and management system and method by detecting, assigning status, and monitoring a set of real time identification, and display characteristics for the set of transports within the transportation network and generating an output display characterizing

Art Unit: 2165

relationships between the set of transports based on the information collected in the monitoring step (See Abstract).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further modify the teachings of Gibbs as modified to include the overall damage condition of the rail equipment because it provides a method for faster assistance, and more efficiently repairing of rail equipment (i.e. it is common to look at the over condition and then break it down part by part).

As to claims 3, Gibbs as modified discloses wherein the data entry system stores information relating to a plurality of types of railcars (See Gibbs column 3, lines 4-30).

As to claim 4, Gibbs as modified discloses wherein the railcars are selected from the group consisting of box cars, flat cars, hopper cars, general purpose tank cars, open top hopper and gondola cars, plastic pellet cars, pressure differential cars and pressure tank cars (See Gibbs column 16, lines 13-51).

As to claim 5, Gibbs as modified discloses wherein the report comprises information related to whether the rail equipment must be repaired or whether the rail equipment is useable in its present state (See Gibbs column 10, lines 62-67, and see Gibbs column 11, lines 34, also see Gibbs column 16, lines 35-67, and see Gibbs column 17, lines 1-24).

As to claim 8, Gibbs as modified discloses assigning a damage indicator for each part of the rail equipment (See Gibbs column 2, lines 18-67, wherein “damage indicator” reads on “detection signals”, also see Gibbs column 10, lines 62-67, and see Gibbs column 11, lines 1-5); and

inputting the damage indicator for each part of the rail equipment into the data entry system (See Gibbs column 19, lines 4-59).

As to claim 9, Gibbs as modified discloses adding information into the data entry system relating to the inspector of the rail equipment (See Gibbs column 1, lines 60-67, and see Gibbs column 2, lines 1-17).

As to claim 10, Gibbs as modified discloses wherein the information further comprises the identity of the rail equipment (See Gibbs column 3, lines 4-30, also see Gibbs column 10, lines 46-67, and see Gibbs column 11, lines 1-62).

As to claim 11, Gibbs as modified discloses selecting a record of rail equipment from the database (See Gibbs column 2, lines 38-67);

editing information on the record of the rail equipment (See Gibbs column 10, lines 26-36, and see Gibbs column 7, lines 18-47, and see Gibbs column 8, lines 42-66); and  
saving the information to the database (See Gibbs column 10, lines 26-36).



5. Claims 2, and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs (U.S. Patent No. 5,836,529) in view of Good (U.S. Patent No. 6,477,452 B2), and further in view of Jarrett (U.S. Patent No. 6,345,257 B1).

As to claim 2, Gibbs as modified still does not teach wherein the report comprises information relating to an estimated cost of repair of the rail equipment.

Jarrett teaches wherein the reports comprise information relating to an estimated cost of repair of the rail equipment (See Jarrett column 15, lines 27-67).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have further modified Gibbs as modified to include wherein the reports comprise information relating to an estimated cost of repair of the rail equipment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Gibbs as modified by the teaching of Jarrett to include wherein the reports comprise information relating to an estimated cost of repair of the rail equipment because showing the cost associated with repair allows for better business management and ultimately cost reduction for the corporation.

As to claim 6, Gibbs as modified still does not teach wherein the report further comprises information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shopped.

Jarrett teaches wherein the reports further comprise information related to whether the

Art Unit: 2165

rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shipped (See Jarrett column 1, lines 46-67, also see Jarrett abstract).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have further modified Gibbs as modified to include wherein the reports further comprise information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shipped.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Gibbs as modified by the teaching of Jarrett to include wherein the reports further comprise information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shipped because it allows for quicker and efficient response time to problem reporting thereby cutting operational business costs.

As to claim 7, Gibbs as modified still does not teach printing blank forms relating to the rail equipment from the data entry system.

Jarrett teaches printing blank forms relating to the rail equipment from the data entry (See Jarrett column 7, lines 63-67, and see Jarrett column 8, lines 1-13).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have further modified Gibbs as modified to include printing blank forms relating to the rail equipment from the data entry.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Gibbs as modified by the teaching of Jarrett to include

printing blank forms relating to the rail equipment from the data entry because it allows for accommodation of user preferences and customization and provides for availability of on the spot trouble data entry means for maintenance/inspection crew.

*Response to Arguments*

6. Applicant's arguments filed on June 18, 2008 have been fully considered but they are not persuasive.

Applicant's argument that "Gibbs does not teach or suggest automatically assign one of the dispositions to the rail equipment" is not found to be persuasive.

Various sections of Applicant's specification contradict Applicant assertions made in the remarks in fact there is only instant exiting of the word "automatic" in the entire specification and its in relation to generating values t be considered as the "repair disposition" nothing to do with "automatic assignment of repair disposition".

For example Applicant's specification published version states:

[0020] Once the assessment information is entered onto the forms, the information may then be stored within the database. The data entry system may then ensure that each entry into the data entry system is validly entered. The data entry system may then generate a repair disposition and repair cost estimation when all entries are completed. Reports may then be generated from the information entered in the data entry system. The reports may provide information such as the repair costs and particular availability of railcars as well as the locations of the railcars. Moreover, a user of the data entry system may have the ability to edit records, such as, for example, current records or history records.

[0028] When all of the fields for each of the railcar parts have been entered into the data entry system via step 34, then a "Repair Disposition" report may be generated by the system via step 36 using the inputted information and the generic information relating to each type of railcar, and a numeric value may be generated that may correspond to three conditions: "Direct-to-Customer ("DTC")", "Mobile Repair Unit ("MRU")", or "Shop". If the numerical value

Art Unit: 2165

representing "DTC" is generated via step 38, then the railcar can be shipped to a customer without taking any action on the railcar. If the numerical value representing "MRU" is generated via step 40, then a mobile repair unit may be sent to the storage location of the railcar to repair minor damage to the railcar. If the numerical value representing "Shop" is generated via step 42, then the railcar should be sent to a repair shop to repair major damage to the railcar.

[0031] The data entry system may automatically generate values for the repair disposition and the repair cost, which may be overridden by the user if necessary

Applicant's specification suggests that the summation of the overall data entered by the user in the system would produce results (report) that would suggest the overall status (disposition) of the well being of the rail equipment not seen to be any different from what Gibbs teaches. Gibbs clearly monitors the status of rail equipment and automatically generates the performance status (condition) of the equipment as disclosed in column 2, lines 41-50:

The present invention automatically maintains a transportation network database; automatically generates transportation network status statistics, performance statistics, and warning signals for user-selectable transports within a user-selectable geographic region; and outputs graphical representations of the generated statistics and the warning signals. The system and method also enables users to select between either a broad or a detailed representation of the transportation network's operation.

and column 4, lines 8-24:

In addition, the system automatically generates alert signals according to customizable warning criteria whenever a variance from planned operation has occurred. The present invention generates an easy-to-use, consistent user interface that provides graphical characterizations of transportation network status conditions and performance criteria at multiple levels of detail. The present invention directly provides railroad personnel with a powerful set of tools for maximizing resource utilization, minimizing exceptions and improving on-time delivery to their customers. The present invention is particularly advantageous over the prior art because of its ability to automatically generate graphical status and performance indicators from both historical and real-time data, thereby aiding users ranging from executives to clerks in the areas of planning, sales, optimum blocking, scheduling, revenue collection, shipment, customer management and report generation.

It is maintained that computer system generated status from a limited list of status identifiers related to the repair condition of the rail equipment as disclosed by Gibbs would cover the cited claim limitation.

Applicant's argument that "Good does not teach or suggest generating a report and automatically assigning a disposition from a group including at least (1) not repairing the rail equipment (2) repairing the rail equipment using a mobile repair unit and (3) repairing the rail equipment at a repair facility" is respectfully noted but not deemed to be persuasive.

Just as applicable above, neither Applicant's claims nor specification offer any details as to the distinctions attributed to "automatically assigning a disposition" since both Gibbs and Good offer systems that automatically output and report railroad equipment conditions related to performance and repair. In fact Good's software system is referred to as an Automated Repair Management System (ARMS). Furthermore, in column 7, lines 25-50, Good states:

In a preferred embodiment, local communications terminal 103 automatically uploads vehicle status file 205 periodically at a frequency of once every 30 minutes. Alternatively, the frequency of upload can be decreased to minimize the number of transmissions or increased to approach real-time notification. Personnel at regional company offices use regional communications terminal 102 to determine equipment status and location in order to manage reservations.

and in column 14, lines 25-37:

maintaining in a moving equipment status database information on repair status of one or more moving equipment items from the plurality of moving equipment items; creating a service event notification in said moving equipment status database pertaining to one or more moving equipment items of said plurality of moving equipment items; generating a predicted service completion date for said one or more moving equipment items using said service event notification; and automatically communicating said predicted service completion date for said one or more moving equipment items to said availability database

Both of which indicate the computer system performs the status assignment for the well-being of the rail equipment and later presenting it to the user. It is also clear from applicant's specification that the type of dispositions are user defined (they can range from various types as a matter of choice) and although argued to be automatically assigned by the system is still well within the teachings of the cited prior art. Both Gibbs and Good as stated in the rejection above teach various repair dispositions as well as leaving options open as to what the dispositions automatically generated by their systems can be and thus can include applicant's presented ones of "(1) not repairing the rail equipment (2) repairing the rail equipment using a mobile repair unit and (3) repairing the rail equipment at a repair facility".

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2165

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074.

The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian P. Chace can be reached on 571-272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neeven Abel-Jalil  
Primary Examiner  
August 14, 2008

/Neeven Abel-Jalil/  
Primary Examiner, Art Unit 2165